

COPY

IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In re:

SENTINEL TRUST COMPANY

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No. 4781

Objections of Danny N. Bates, et al.,
to Motion to Approve Sale of Sentinel's
"Bellevue Property"

These formal objections are made pursuant to the Court's open-court instructions that these objecting parties should file explicit written objections. They are also made with the respectful suggestion that the Court permit such to be argued in open court in its courtroom in Franklin on the afternoon of May 20, 2004, instead of by telephone.

Despite the complaint of Movant's attorney that he is accustomed to walking into this Court and getting his way without delay, the objecting parties, Dannie N. Bates, et al., and Sentinel Trust Company by its Board of Directors, (hereinafter, "Objecting Parties," being the same parties who objected on or about February 25, 2005 to certain motions of the Receiver, and making other objections thereafter) make the following objections to the Motion to Approve of the sale of Sentinel's office condominium property located at 8122 Sawyer Brown Road, Bellevue, Tennessee on the following grounds:

1st: The Movant's insistence that the court both render its "statutory" approval and make its order non-final is arrogant and unjustifiable to the extent that even if there were a "colorable" power vested in the Commissioner to convert and thereby destroy the properties owned by Sentinel and indirectly by its stockholders, as to whose actual legal existence the reasons for these parties' denial are so strong—with Movant not having even **attempted** to demonstrate the actual existence

of such power—that any approval granted out of misplaced respect for the Commissioner’s high office should be declared final so as to be appealable. But it should also be conditioned upon both preservation of the sales proceeds by payment of the same into Court and by expressly retaining the power to nullify the transfer in the event of actual adjudication of the issues based upon a conscious reading and application of the written provisions of the statutes.

2nd: As heretofore shown by numerous objections, virtually every action in the past as to which the Receiver or the Commissioner has sought this Court’s approval has been of a decision not even arguably within the Court’s jurisdiction because they were matters that would have been wholly within the powers of the Commissioner, acting without the cover of the appearance of legalization sought to be afforded by judicial approval, had the Commissioner seized a state bank as he is authorized to do under stated conditions by T.C.A. §§ 45-2-1502 and 45-2-1504, or to illegally use trust funds to fund his receivership and liquidation efforts, which is not authorized either by any statute or by the common law.

3rd: This is the first effort by the Commissioner to ask the court to sanction the sale of Sentinel Trust Company’s own property, which he would be authorized to ask the court to sanction if Sentinel Trust Company were a “state bank,” as to which type of institution such powers are created and delegated by T.C.A. § 45-2-1504(a). As to the lack of power of the Commissioner to so seize and forfeit ownership of a Trust Company’s real properties (indirectly owned by its stockholders), Sentinel Trust Company’s briefing before the Tennessee Court of Appeals in *In re: Sentinel Trust Company*, No. M2005-00031-COA-R3-CV demonstrated that the word “bank” cannot be construed as meaning “trust company” by any literate reader who shows respect for the actual meaning of words in a text, whether statutory or constitutional. Such argument, of which relevant excerpts (on statutory construction and due process of law) are appended hereto as an addendum, proves the fact that a reading of “bank” as including “trust company” cannot be achieved, absent illiteracy, except by abandoning the plain meaning of language as it has existed for a period of centuries. For this reason—

- (a) The movants cannot, in good faith, so far depart from the plain meaning of language except by explicitly demonstrating to this Court, through application of the recognized principles of statutory construction, that a grant of power to the Commissioner to seize and destroy the private ownership of property of a bank,

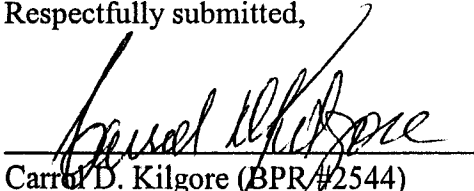
grants him any authority to seize and destroy the private ownership of a non-bank, with the business of a trust company having none of the attributes (or hazards) of the business of a bank. *Stare decisis* determination that the grant to the Commissioner of powers *vis á vis* banks is not a grant of the same powers over non-banking corporations subject to the Commissioner's administrative authority was rendered in *Madison Loan & Thrift Co. v. Neff*, 648 S.W.2d 655 (Tenn.App., M.S., 1982) (cited with approval, *Tennessee Department of Revenue v. Moore*, 722 S.W.2d 367, 378 (Tenn., 1986)), whose authoritative force has not been disclaimed by the Supreme Court or by any other appellate court.

- (b) The movant cannot properly ask the Court to disregard all authoritative law governing the reading and interpretation of statutes except by presenting principled argument that the claims for judicial sanction "are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law . . .", Rule 11.02(2), Tenn.R.Civ.P., and the only body of law that exists and which can be used in rational argumentation for such purpose is the law of statutory construction. In seeking this destruction of private property rights, the movant has not even attempted to present any rationale that is remotely related to the law of statutory construction.
- (c) Although other trial courts have enunciated decisions that rejected Sentinel's contentions, none did so by demonstrating the loyalty to the sworn obligation to follow law, which could have been achieved only by either (i) using the law of statutory construction to demonstrate by actual reasoning that Sentinel's position is wrong, or (ii) enunciating some other theory, founded upon recognizable legal principles, seeking to entice a reader to believe that the wisdom of the law of statutory construction is irrelevant to the labor of construing a statute to determine its meaning.
- (d) This Court should not permit its powers to be perverted by exercising a "statutory" approval power not in fact granted by the plain words of the statute invoked, because such would be a judicial taking of property without due process of law and contrary to the law of the land, in violation of Section 1 of the 14th Amendment to the

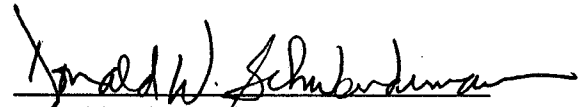
Constitution of the United States and of the Constitution of Tennessee, Article I, Section 20 and Article XI, Section 16; and would constitute a state judicial seizure of private property for public use without just compensation, contravening the judicial obligation to uphold the Constitutions of the United States and of the State of Tennessee.

4th: Upon every occasion when the Commissioner and/or his Receiver heretofore collected sums due under each defaulted bond issue of which Sentinel was the appointed Trustee, all such receipts were trust funds with the following consequences: (i) each was burdened with all obligations owed by the trust issuer to Sentinel as holder of the pooled trust funds, pursuant to which the Commissioner/Receiver was obligated to continue charging to each such delinquent account the monthly interest rate of 1½%, compounded monthly (which, for the seven months from the end of May through the end of December, 2004 would have increased each negative balance by 12.62936% as a matter of simple arithmetic); (ii) upon each such receipt, the Commissioner and Receiver were obligated to pay (or credit) all recovered moneys into the pooled trust fund to the extent necessary to overcome the negative balance, or “zero out” the account, as updated to the date of payment, and (iii) the Commissioner’s failure to so pay charges due to the pooled account before distributing the balance among bond-holders could only be an unauthroized and illegal diversion of trust funds. With filings by the Commissioner or Receiver demonstrating that they in fact failed to segregate and preserve such trust funds, but instead diverted them to other uses, the Commissioner cannot equitably ask the Court to sanction any of his actions until he has restored to the trust funds the moneys he has illegally diverted therefrom. (See, e.g., Receiver’s motion mailed Feb. 17, 2005, re Final Distribution of Hernando County, Florida proceeds, p. 4, revealing failure to post interest charges during post-seizure period.) The details of these conclusions can better be demonstrated upon oral argument, and by consultations of the affidavits filed herein executed by Danny Bates and by Robert Whisenant.

Respectfully submitted,


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A handwritten signature in black ink, appearing to read "Donald W. Schwendimann", written over a horizontal line.

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